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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,594	10/24/2003	Rodney George Wade	CULLE-16	7315

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EXAMINER

VARNER, STEVE M

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/691,594

Applicant(s)

WADE, RODNEY GEORGE

Examiner

Steve M Varner

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*llw*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/19/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15,16 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 6, 14, are rejected under 35 U.S.C. 102(b) as being anticipated by Hutter, Jr. et al.

Regarding claim 1, Hutter, Jr. et al. shows a rain head having an inlet (24) and an outlet (outlet of 20). It is inherent that the storm drain (20) has an outlet. Hutter, Jr. et al. shows a primary filter (66) through which water from the inlet may flow, secondary filter (top 58) through which water passing through the primary filter may flow and a tertiary filter (bottom 58) located between the secondary filter and the outlet, the secondary filter filters smaller particles from the water than the primary filter and the tertiary filter filters small particles from the water than the secondary filter (Col. 4, Line 43-45) (Fig. 1, 5).

Hutter, Jr. et al. shows the primary filter having a peaked portion (68) and downwardly inclined sloping portion (70) whereby particles caught by the filters with the peaked portion and the downwardly inclined sloping portion are washed to sides of the filter to minimize restriction of water through the filters (Fig. 5).

Regarding claims 2, 5, Hutter, Jr. et al. shows the primary filter and the secondary filters are filter screens (Fig. 5).

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Regarding claim 14, it is inherent that a downpipe connecting portion (extension of 20) (Fig. 2) extends from the rain head (Fig. 5) since the storm drain (20) is designed to carry water away, and the free end (24) of the connecting portion provides the inlet from the rain head (Fig. 1). It is inherent that underground sewerage channels (extension of 20) are downpipes since they are enclosed with a downward slope.

Regarding claims 3, 6, Hutter, Jr. et al. shows woven stainless steel mesh (Col. 4, Line 25, Line 30-40) in the form of hardware cloth (Col. 4, Line 35).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 7, 12, 17, 18, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutter, Jr. et al.

Regarding claim 4, 7, 17, 18, Hutter, Jr. et al. shows the basic claimed structure. Hutter, Jr. et al. does not show the aperture size from 4 to 6 mm or from 1 to 1.5 m. These dimensions would be an obvious design choice to trap particles of certain sizes.

Regarding claim 12, Hutter, Jr. et al. shows the basic claimed structure. Hutter, Jr. et al. does not show filtration down to 50 microns. It would have been an obvious design choice to filter down to 50 microns to reduce pollution in the form of suspended solids.

Claims 8-11, 19, 20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutter, Jr. et al. in view of Sanguinetti.

Regarding claim 8-11, 19, 20, Hutter, Jr. et al. shows geotextile (Col. 4, Line 47). Hutter, Jr. et al. does not show one or more layers of non-woven geotextile fabric. Sanguinetti shows non-woven geotextile fabric (Col. 6, Line 50-60). It would have been an obvious design choice for the fabric to have a thickness between 4.8 to 5.7mm a drop cone characteristic of between H5o 6400 to H2o 12600 per layer, a CBR burst strength of between 5100N@60% to 9600N@60% per layer, tensile strength of between 33kN/m D/18kN/m MD to 68kN/m D/38kN/m MD per layer, a pore size between 100mm to 90mm per layer and a flow rate of between 80Lm2/ s to 65Lm2/s per layer to achieve the desired degree of filtration. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use non-woven geotextile fabric as in Sanguinetti in the structure of Hutter, Jr. et al. to allow water to filter through while trapping soils and sediments.

#### ***Claim Objections***

Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Allowed Claims***

Claims 15, 16, are allowed.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scyffert et al. shows vibration separator screen assemblies. Ruey-Jang et al. shows a sanitary device for sewerage channel.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SV



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600